



Billing Code 4210-67

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5835-N-14]

60-Day Notice of Proposed Information Collection

Comprehensive Transactional Forms Supporting FHA's Section 242 Mortgage Insurance Program for Hospitals

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: Consistent with the Paperwork Reduction Act of 1995 (PRA), HUD is publishing for public comment a comprehensive set of transactional and closing documents used in connection with transactions involving hospitals that are insured pursuant to Section 242 of the National Housing Act (Section 242). The proposed information collection will replace the existing collection 2502-0602 and will be submitted to the Office of Management and Budget (OMB) for review, as required by the PRA. The Department is soliciting public comments on the subject proposal for 60 days. The documents that are the subject of this notice can be viewed on HUD's website:

http://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities/section_242/additional_resources/242_redlines_0815

DATES: Comments Due Date: **[Insert date 60 days after date of publication in the FEDERAL REGISTER].**

ADDRESSES: Interested persons are invited to submit comments regarding this proposal.

Comments should refer to the proposal by name and/or OMB Control Number and should be sent

to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, Room 9120 or the number for the Federal Information Relay Service (1-800-877-8339). Facsimile (fax) comments are not acceptable.

FOR FURTHER INFORMATION CONTACT: Program Contact: Paul Giaudrone, Underwriting Director, Office of Hospital Facilities, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, telephone (202) 708-0599 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The revised hospital documents can be viewed at:

http://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities/section_242/additional_resources/242_redlines_0815

Where documents are based on existing Section 232 residential care facility or Multifamily program documents, the hospital documents, in addition to being presented in an unmarked format, are presented in redline/strikeout format so that the reviewer can see the changes proposed to make the documents applicable to Section 242 transactions. Where proposed documents are based on existing OHF forms, the proposed versions are also presented in both redline/strikeout and unmarked formats. Summaries of the major changes to some of the principal documents follow. Where capitalized terms are used, such terms refer to the titles of documents or defined terms in the documents.

Summary of Changes to Documents:

Information Collection	Form Name	Summary of Changes
HUD-91070-OHF	Consolidated Certifications Borrower	New form, no policy change. This is a new form that consolidates many certifications into one form (ex. prior versions of the HUD-41901, HUD-92010, Byrd Amendment certifications, etc. are now consolidated)
HUD-91071-OHF	Escrow Agreement for Off-site Facilities	Nomenclature changes only. Minor updates to Multifamily 91071-M form to make this an OHF form.
HUD-91073-OHF	HUD Survey Instructions and Surveyor's Report	Nomenclature changes only. Minor updates to previous 91073-OHF version to remove multifamily terminology and replace with hospital terminology.
HUD-91111-OHF	Survey Instructions and Borrower's Certification	New form based on 232 version. Reflects nomenclature changes for 242 hospitals, and removes exceptions that do not apply to hospitals.
HUD-91725-OHF	Opinion by Counsel to the Borrower	New form based on 232 version. Removes references to Operators and Public Entity Agreement which do not apply to 242, and includes survey requirements per 242 policy. Updates nomenclature and terminology throughout to be representative for 242 program and hospitals, instead of residential care facilities. Includes provisions if AR financing is involved.
HUD-92013-OHF	Application for Hospital Project Mortgage Insurance	Minor changes only. Minor updates and corrects burden hours from previous version.
HUD-92023-OHF	Request for Final Endorsement of Credit Instrument - Hospitals/Section 242	New form based on 232 version. Nomenclature changes only to reflect 242 hospitals, and includes Construction Managers in addition to General Contractors.
HUD-92070-OHF	Lease Addendum	New form based on 232 version. Nomenclature changes and updates language from "Mortgagee/Mortgagor" to "Lender/Borrower." Instructions added.
HUD-92080-OHF	Change of Mortgage Record	New form based on MF version. Minor nomenclature changes and language updates language from "Mortgagee/Mortgagor" to "Lender/Borrower."
HUD-92117-OHF	Borrower's Certification-Full or Partial Completion of Non-Critical Repairs	New form based on 232 version. Changed form name and terms within from "Non-Critical Repairs" to "Project" to cover 242 project work not just limited to repairs.
HUD-92205-OHF	Borrower's Pre-Closing Certificate of Actual Cost (Section 242/223f)	New form based on 232 version. Changed "repairs" to "limited rehabilitation" to cover 242/223f projects. Added "Pre-Closing" to the name to clarify the difference of this form from the 92330 certificate of actual cost.
HUD-92223-OHF	Surplus Cash Note	New form based on 232 version. Minor nomenclature changes to reflect 242 hospitals.
HUD-92322-OHF	Intercreditor Agreement	New form based on 232 version. Changed residential care facility terms to reflect hospitals ("owner/operator" to "hospital"). Removed language and portions relevant to Owners/Operators and master tenancy/leases that do not apply to 242. Included provisions to cover additional facilities under one loan, as many 242 loans cover multiple buildings/facilities. Changed terminology from "impositions" to "mortgage costs".

HUD-92330A-OHF	Contractor's Certificate of Actual Cost - Hospitals/Section 242	Corrects existing form. Corrects previous 92330A-OHF form to reference 242 forms, handbook, and include construction managers.
HUD-92330-OHF	Borrower's Certificate of Actual Cost - Hospitals/Section 242	Corrects existing form. Corrects previous 92330-OHF form to reference 242 forms, handbook, and citations. Changes terminology from "Mortgagee/Mortgagor" to "Lender/Borrower."
HUD-92403A-OHF	Borrower's And Architect's Certificate of Payment (01/1995)	Corrects existing form. Corrects previous 92403-OHF form to reference correct 242 citations. Changes terminology from "Mortgagee/Mortgagor" to "Lender/Borrower."
HUD-92403-OHF	Application for Insurance of Advance of Mortgage Proceeds	Corrects existing form. Corrects previous 92403-OHF form to reference correct 242 forms. Changes terminology from "Mortgagee/Mortgagor" to "Lender/Borrower."
HUD-92415-OHF	Request For Permission To Commence Construction Prior To Initial Endorsement For Mortgage Insurance - Hospitals/Section 242	Corrects existing form. Corrects previous 92403-OHF form to reference correct 242 forms. Changes terminology from "Mortgagee/Mortgagor" to "Lender/Borrower."
HUD-92422-OHF	Financial And Statistical Data For HUD Reporting	Corrects existing form. Includes updated financial data and statistical fields requested for reporting.
HUD-92434-OHF	Lender's Certificate	New form based on 232 version. Changed terminology to reflect hospitals, removed Administrative Fees provisions, added disclosure of Ginnie Mae extension fee provision and deleted provision noting that borrower has collected amounts to cover extension fees, changed the time for submission of application for insurance of advances; various updates to conform to handbook provisions; added a provision on escrows and deleted unitary loan provision.
HUD-92441-OHF	Building Loan Agreement	New form based on 232 version. Changed residential care facility terms to reflect hospitals and reference 242's related forms. Includes provisions for expenses involved in 242 transactions, off-site improvements, and 242 construction contracts.
HUD-92441A-OHF	Building Loan Agreement (223f version)	New form based on 92441-OHF. Modified agreement for 223f to tailor language for insurance upon completion and limited rehabilitation.
HUD-92442-OHF	Construction Contract	New form based on 232 version. Nomenclature changes to reflect 242 hospitals. Changed construction contract language to be consistent with 242 policies and procedures involving time of construction activities/requests, requisition and payment procedures, and assurance of completion. Removed identities of interest language that applies to 232 projects.
HUD-92448-OHF	Contractor's Requisition Project Mortgages	New form. Replaces existing 92448-OHF which is not the correct form that we use.
HUD-92452A-OHF	Payment Bond	New form based on 232 version. Minor nomenclature changes only.
HUD-92452-OHF	Performance Bond	New form based on 232 version. Minor nomenclature changes only.

HUD-92455-OHF	Request for Endorsement of Credit Instrument & Certificate of Lender, Borrower & General Contractor	New form based on 232 version. Changed terminology to reflect hospitals. Revised language related to escrows to make them specific to hospital transactions and language relating to mortgage reserve funds. Updated content to reflect Section 242 Handbook guidance.
HUD-92456-OHF	Escrow Agreement for Incomplete Construction	New form based on 232 version. Minor nomenclature changes only.
HUD-92464-OHF	Request for Approval of Advance of Escrow Funds - Hospitals/Section 242	Corrects existing form. Replaces existing 92464-OHF and includes references for 242 construction and limited rehabilitation pursuant to 223(f) loans.
HUD-92466-OHF	Regulatory Agreement - Borrower	New form. This document was based on the Section 232 Regulatory Agreement, but was so substantially revised that a redline was not warranted. All terms were changed from "healthcare facility" to "hospital" and any 232 specific terms and provisions were removed. Provisions from the covenants which are attached to the current form of 242 regulatory agreement were inserted, as well as language consistent with the Security Instrument and current Housing policies. Industry is very familiar with these covenants so new policy concepts are not being introduced with the insertion of those provisions. Definitions were added as an exhibit C to the Agreement in order to make the document easier to read without having to page through numerous definitions. Significant terminology now used in the new 242 regulatory agreement is the concept of "Program Obligations" as used in Multifamily and 232; definition of "Revenue" to replace the definition of "Rent"; and the definition of "Waste". Liabilities consistent with Multifamily and 232 policy were added to the Section 40 Addendum.
HUD-92476-OHF	Escrow Agreement for Deferred Work	New form. Escrow language modified to cover funds for deferred work.
HUD-92476A-OHF	Escrow Agreement for Limited Rehabilitation	New form. Escrow language modified to cover 223(f) loans.
HUD-92479-OHF	Off-Site Bond - Dual Oblige	New form based on 232 version. Minor nomenclature changes only.
HUD-9250-OHF	Funds Authorizations	No policy change. Modified 232 version to reflect 242 nomenclature and terminology (ex. "Mortgage Reserve Fund" instead of "Reserve for Replacements Fund" and "Borrower" instead of "Owner/Operator")
HUD-92554-OHF	Supplementary Conditions of the Contract for Construction (06/2014)	New form based on 232 version. Nomenclature changes and updated regulatory references to appropriate ones related to Section 242.
HUD-92576-OHF	Certificate for Need for Health Facility and Assurance of Enforcement of State Standards	New form based on 232 version. Minor nomenclature changes and removed "skilled nursing facility" and "intermediate care facility" checkboxes.
HUD-92580-OHF	Maximum Insurable Mortgage	Corrects existing form. Corrects previous version that had multifamily language and incorrect references, making it specific to 242 hospital program. Updates language from "Mortgagee/Mortgagor" to "Lender/Borrower."

HUD-93305-OHF	Agreement and Certification	New form based on 232 version. Nomenclature changes to reflect 242 hospitals and update references of form names. Changed language to include Construction Managers and change "repairs" to "limited rehabilitation" per 242/223(f).
HUD-94000-OHF	Security Instrument/Mortgage/Deed of Trust	New form based on 232 version. Changed all terms from "healthcare facility" to "hospital." Removed all terms related to operator, master tenant, master leases, and any other 232 specific terms which are not applicable in 242 (example: reserve for replacements and residual receipts). Also removed references to "residents" and "security deposits" and any other term that wouldn't be applicable to a 242 transaction. Completed removed a section on "single asset borrower" as in 242 the borrower does not have to be a single asset borrower and can own multiple assets and businesses.
HUD-94001-OHF	Healthcare Facility Note	New form based on 232 version. No changes aside from nomenclature and changing terms from "healthcare facility" to "hospital."
HUD-94128-OHF	Environmental Assessment and Compliance Findings	No change. Just correcting form number from "4128-OHF" to "94128-OHF" and correcting estimated burden hours.

A. Paperwork Reduction Act – Under the PRA, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number. The public reporting burden for this revised collection of information is estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided in the following table:

Information Collection	Form Name	Number of Respondents	Frequ. of Resp.	Resp. per Annum	Avg. Burden Hour Per Response	Annual Burden Hours	Avg. Hourly Cost Per Response	Annual Cost
HUD-91070-OHF	Consolidated Certifications Borrower	15	1	15	1	15	\$220	\$3,300
HUD-91071-OHF	Escrow Agreement for Off-site Facilities	3	2	6	0.5	3	\$100	\$300
HUD-91073-OHF	HUD Survey Instructions and Surveyor's Report	15	1	15	1	15	\$75	\$1,125
HUD-91111-OHF	Survey Instructions and Borrower's	15	1	15	1	15	\$75	\$1,125

	Certification							
HUD-91725-OHF	Opinion by Counsel to the Borrower	15	1	15	2	30	\$220	\$6,600
HUD-92013-OHF	Application for Hospital Project Mortgage Insurance	15	1	15	4664	69960	\$75	\$5,247,000
HUD-92023-OHF	Request for Final Endorsement of Credit Instrument - Hospitals/Section 242	15	1	15	1.5	22.5	\$100	\$2,250
HUD-92070-OHF	Lease Addendum	10	1	10	0.5	5	\$220	\$1,100
HUD-92080-OHF	Change of Mortgage Record	10	1	10	0.5	5	\$75	\$375
HUD-92117-OHF	Borrower's Certification- Full or Partial Completion of Project	5	5	25	0.5	12.5	\$75	\$938
HUD-92205-OHF	Borrower's Pre-Closing Certificate of Actual Cost (Section 242/223f)	5	1	5	3.5	17.5	\$75	\$1,313
HUD-92223-OHF	Surplus Cash Note	5	1	5	0.5	2.5	\$220	\$550
HUD-92322-OHF	Intercreditor Agreement	8	1	8	3.5	28	\$100	\$2,800
HUD-92330A-OHF	Contractor's Certificate of Actual Cost - Hospitals/Section 242	15	1	15	2	30	\$75	\$2,250
HUD-92330-OHF	Borrower's Certificate of Actual Cost - Hospitals/Section 242	15	1	15	1	15	\$75	\$1,125
HUD-92403A-OHF	Borrower's And Architect's Certificate of Payment (01/1995)	15	1	15	0.25	3.75	\$75	\$281
HUD-92403-OHF	Application for Insurance of Advance of Mortgage Proceeds	7	12	84	0.25	21	\$75	\$1,575
HUD-92415-OHF	Request For Permission To Commence Construction Prior To Initial Endorsement For Mortgage Insurance - Hospitals/Section 242	5	1	5	1	5	\$75	\$375
HUD-92422-OHF	Financial And Statistical Data	90	6	540	4	2160	\$75	\$162,000

	For HUD Reporting							
HUD-92434-OHF	Lender's Certificate	15	1	15	8	120	\$100	\$12,000
HUD-92441-OHF	Building Loan Agreement	10	1	10	4	40	\$75	\$3,000
HUD-92441A-OHF	Building Loan Agreement (223f version)	5	1	5	4	20	\$75	\$1,500
HUD-92442-OHF	Construction Contract	10	1	10	2	20	\$75	\$1,500
HUD-92448-OHF	Contractor's Requisition Project Mortgages	10	1	10	3	30	\$75	\$2,250
HUD-92452A-OHF	Payment Bond	10	1	10	1	10	\$75	\$750
HUD-92452-OHF	Performance Bond	10	1	10	1	10	\$75	\$750
HUD-92455-OHF	Request for Endorsement of Credit Instrument & Certificate of Lender, Borrower & General Contractor	15	1	15	1	15	\$220	\$3,300
HUD-92456-OHF	Escrow Agreement for Incomplete Construction	3	2	6	0.5	3	\$75	\$225
HUD-92464-OHF	Request for Approval of Advance of Escrow Funds - Hospitals/Section 242	5	5	25	2	50	\$75	\$3,750
HUD-92466-OHF	Regulatory Agreement - Borrower	15	1	15	12	180	\$220	\$39,600
HUD-92476-OHF	Escrow Agreement for Deferred Work	2	2	4	0.5	2	\$75	\$150
HUD-92476A-OHF	Escrow Agreement for Limited Rehabilitation	4	2	8	0.5	4	\$75	\$300
HUD-92479-OHF	Off-Site Bond - Dual Oblige	5	2	10	0.5	5	\$220	\$1,100
HUD-9250-OHF	Funds Authorizations	15	1	15	0.5	7.5	\$75	\$563
HUD-92554-OHF	Supplementary Conditions of the Contract for Construction	15	1	15	1	15	\$220	\$3,300
HUD-92576-OHF	Certificate for Need for Health Facility and Assurance of Enforcement of State Standards	12	1	12	0.5	6	\$75	\$450
HUD-92580-OHF	Maximum Insurable Mortgage	15	2	30	6	180	\$75	\$13,500

HUD-93305-OHF	Agreement and Certification	15	1	15	1.5	22.5	\$220	\$4,950
HUD-94000-OHF	Security Instrument/Mortgage/Deed of Trust	15	1	15	2	30	\$220	\$6,600
HUD-94001-OHF	Healthcare Facility Note	15	1	15	1	15	\$220	\$3,300
HUD-94128-OHF	Environmental Assessment and Compliance Findings	12	1	12	8	96	\$75	\$7,200
		516	71	1,115	116	73,247	\$116	\$5,546,419

This Notice also lists the following information:

Title of Information Collection: Comprehensive Transactional Forms Supporting FHA's Section 242 Mortgage Insurance Program for Hospitals.

OMB Control Number, if applicable: 2502-0602.

Type of Request: Revision of currently approved collection.

Form Number(s):

HUD-91070-OHF, HUD-91071-OHF, HUD-91073-OHF, HUD-91111-OHF, HUD-91725-OHF, HUD-92013-OHF, HUD-92023-OHF, HUD-92070-OHF, HUD-92080-OHF, HUD-92117-OHF, HUD-92205-OHF, HUD-92223-OHF, HUD-92322-OHF, HUD-92330-OHF, HUD-92330A-OHF, HUD-92403-OHF, HUD-92403A-OHF, HUD-92415-OHF, HUD-92422-OHF, HUD-92434-OHF, HUD-92441-OHF, HUD-92441A-OHF, HUD-92442-OHF, HUD-92448-OHF, HUD-92452-OHF, HUD-92452A-OHF, HUD-92455-OHF, HUD-92456-OHF, HUD-92464-OHF, HUD-92466-OHF, HUD-92476-OHF, HUD-92476A-OHF, HUD-92479-OHF, HUD-9250-OHF, HUD-92554-OHF, HUD-92576-OHF, HUD-92580-OHF, HUD-93305-OHF, HUD-94000-OHF, HUD-94001-OHF, HUD-94128-OHF

Description of the need for the information and proposed use: The included collection comprise the comprehensive documents necessary for the application, review, commitment, administration, technical oversight, audit and initial/final endorsement of Office of Hospital Facilities projects pursuant to FHA Programs 242, 241, 223(f), and 223(a)(7). The collection corrects, revises, updates, and supersedes the previous collection approved in February 2014.

Respondents (i.e. affected public): Borrowers, lenders, contractors, architects, and engineers that participate in the application, procedure, project administration and initial/final endorsement of FHA hospital mortgage insurance projects.

Estimated Number of Respondents: 516.

Estimated Number of Responses: 1,115.

Frequency of Response: 71.

Average Hours per Response: 116.

Total Estimated Burdens: 73,247.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

- (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) The accuracy of the agency's estimate of the burden of the proposed collection of information;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Date: October 5, 2015

Janet M. Golrick,
Associate General Deputy Assistant Secretary for Housing-
Associate Deputy Federal Housing Commissioner

[FR-5835-N-14]

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